

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D.C. 20460



EXTERNAL CIVIL RIGHTS COMPLIANCE OFFICE
OFFICE OF GENERAL COUNSEL

December 9, 2019

Return Receipt Requested

Certified Mail #: 7015 3010 0001 1267 1937

In Reply Refer To:

EPA Complaint No. 03D-20-R6

Ms. Betty Grdina
Mooney, Green, Saindon, Murphy & Welch, P.C.
1920 L Street, NW, Suite 400
Washington, DC 20036

Re: Rejection and Referral of Administrative Complaint

Dear Ms. Betty Grdina:

This letter is to notify you that the Environmental Protection Agency (EPA), External Civil Rights Compliance Office (ECRCO) is rejecting a complaint filed against the Senior Services of America, Inc. (SSAI) which was received by ECRCO on November 14, 2019. The complaint alleges that SSAI discriminated on the basis of disability by terminating the complainant's employment in July 2019 in violation of Section 504 of the Rehabilitation Act of 1973 (Section 504.) After careful consideration, ECRCO has determined that it is rejecting and referring the complaint to the U.S. Equal Employment Opportunity Commission (EEOC).

Pursuant to EPA's nondiscrimination regulation, ECRCO conducts a preliminary review of administrative complaints to determine acceptance, rejection, or referral to the appropriate Federal agency. *See* 40 C.F.R. § 7.120(d)(1). To be accepted for investigation, a complaint must meet the jurisdictional requirements described in the EPA's nondiscrimination regulation. First, the complaint must be in writing. *See* 40 C.F.R. § 7.120(b)(1). Second, it must describe an alleged discriminatory act that, if true, may violate the EPA's nondiscrimination regulation (i.e., an alleged discriminatory act based on race, color, national origin, sex, age, or disability). *Id.* Third, it must be filed within 180 days of the alleged discriminatory act. *See* 40 C.F.R. § 7.120(b)(2). Finally, the complaint must be filed against an applicant for, or recipient of, EPA financial assistance that allegedly committed the discriminatory act. *See* 40 C.F.R. § 7.15.

During a telephone conversation on December 5, 2019, ECRCO staff explained our preliminary review process to the complainant and discussed and clarified the focus of some of the allegations raised in the complaint. Specifically, ECRCO discussed with the complainant that although the complaint raised allegations of discrimination on the basis of disability related to conduct by SSAI, it also included significant supporting facts and allegations about conduct by, and conversations with, EPA Region 6 staff. ECRCO has determined that, to the extent that the

complaint raises allegations of discrimination against SSAI, EPA has jurisdiction under Section 504 to investigate those claims. However, to the extent that the complaint also raises allegations of discrimination on the basis of disability by EPA employees, ECRCO must reject those allegations as ECRCO does not have jurisdiction under Section 504 to investigate those claims.

With respect to the allegations of disability discrimination against SSAI, although ECRCO has jurisdiction, ECRCO must refer those claims to the EEOC. As described in 28 C.F.R. Part 37.6 "Processing of complaints of employment discrimination filed with an agency other than the EEOC," at Section (c)(2)(i), (and 29 C.F.R. Part 1640). "[a] section 504 agency that otherwise has jurisdiction over a complaint of employment discrimination under section 504 shall promptly refer to the EEOC, for investigation and processing under Title I, [Title I of the Americans with Disabilities Act of 1990 (Title I)] any complaint of employment discrimination that solely alleges discrimination against an individual (and that does not allege discrimination in both employment and in other practices or services of the respondent or a pattern or practice of employment discrimination . . .". Accordingly, as the EEOC may have jurisdiction over this matter under Title I, ECRCO is referring this complaint to the EEOC's Dallas office for appropriate action.

We have enclosed a copy of our letter to the EEOC referring the complaint, for your information. In light of the above, we are closing the complaint with ECRCO as of the date of this letter. If you have questions about this letter, please contact Zahra Khan, by phone at (202) 564-0460, by email at khan.zahra@epa.gov or by mail at 1200 Pennsylvania Avenue, NW, Mail Code 2310A, Room 2524, Washington, DC, 20460-1000.

Sincerely,



Lilian S. Dorka, Director
External Civil Rights Compliance Office
Office of General Counsel

cc: Angelia Talbert-Duarte
Acting Associate General Counsel
Civil Rights & Finance Law Office

David Gray
Deputy Regional Administrator
Deputy Civil Rights Official
EPA Region 6

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